IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

WP(C).No. 25705 of 2007(I)

PETITIONER:

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1. TITANIUM EMPLOYEES UNION (UTUC),
KERALA MINERALS AND METALS LTD.,
SANKARAMANGALAM, CHAVARA 691 583, QUILON,
REPRESENTED BY ITS GENERAL SECRETARY.

2. TITANIUM COMPLEX WORKERS ASSOCIATION,
KERALA MINERALS AND METALS LTD.,
SANKARAMANGALAM, CHAVARA 691 583, QUILON,
REPRESENTED BY ITS GENERAL SECRETARY.

3. KMML TITANIUM COMPLEX EMPLOYEES UNION
(UTUC-B), KERALA MINERALS AND METALS LTD.,
SANKARAMANGALAM, CHAVARA 691 583, QUILON,
REPRESENTED BY ITS GENERAL SECRETARY.

4. THE KERALA MINERALS & TITANIUM EMPLOYEES
ASSOCIATION (AITUC), KERALA MINERALS AND METALS
LTD., SANKARAMANGALAM, CHAVARA 691 583, QUILON,
REPRESENTED BY ITS GENERAL SECRETARY.

5. TITANIUM LABOURS CONGRESS,
KERALA MINERALS AND METALS LTD.,
SANKARAMANGALAM, CHAVARA 691 583, QUILON,
REPRESENTED BY ITS GENERAL SECRETARY.

6. TITANIUM COMPLEX EMPLOYEES UNION
(UTUC-M), KERALA MINERALS AND METALS LTD.,
SANKARAMANGALAM, CHAVARA 691 583, QUILON,
REPRESENTED BY ITS GENERAL SECRETARY.

BY ADV. SRI.THAMPAN THOMAS

RESPONDENTS:

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1. UNION GOVERNMENT OF INDIA, REPRESENTED
BY SECRETARY, MINISTRY OF LABOUR,
SHRAMA SHAKTHI BHAVAN, RAFI MARG, NEW DELHI.

2. STATE OF KERALA, REPRESENTED BY
SECRETARY, LABOUR DEPARTMENT,
TRIVANDRUM.

3. THE KERALA MINERALS AND METALS LTD.,
SANKARAMANGALAM, CHAVARA 691 583, QUILON,
REPRESENTED BY ITS MANAGING DIRECTOR.

4. THE CHIEF LABOUR COMMISSIONER (CENTRAL)
GOVERNMENT OF INDIA, MINISTRY OF LABOUR,
NEW DELHI.

5. REGIONAL LABOUR COMMISSIONER (CENTRAL)
KENDRIYA SHRAM SADAN, OLIMUGHAL, KAKKANAD,
KOCHI-682 030.

6. KMM TITANIUM EMPLOYEES UNION,
KERALA MINERALS AND METALS LTD.,
SANKARAMANGALAM, CHAVARA 691 583, QUILON,
REPRESENTED BY ITS GENERAL SECRETARY.

7. TITANIUM COMPLEX EMPLOYEES CONGRESS,
KERALA MINERALS AND METALS LTD.,
SANKARAMANGALAM, CHAVARA 691 583, QUILON,
REPRESENTED BY ITS GENERAL SECRETARY.

BY ADV. SRI.GEORGE JOSEPH, ADDL.CGSC
SRI. PARAMESWARAN NAIR – ASG.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.25705 OF 2007

DATED THIS THE 23rd DAY OF AUGUST, 2007

JUDGMENT

The petitioner claims to be a Union of workers of the 3rd respondent management. The petitioner is aggrieved by the modality of conducting referendum for recognition of the Unions of workers of the 3rd respondent. According to the petitioner, the stipulation that only Unions having membership of not less than 50% of the total work force of the establishment is eligible for recognition itself is arbitrary and unsustainable. Therefore, the petitioner seeks the following reliefs.

i) to issue a writ of certiorari or any other appropriate writ, order or direction, calling for the records in this case and quash Exhibit P4;

> ii) to issue a writ of mandamus or other appropriate writ order or direction compelling respondents 3 and 5 to conduct a fresh referendum in the company.
>
> iii) to issue a writ of mandamus or other appropriate writ order or direction to respondents 1 and 2 to bring appropriate legislation or amendment in the matter of conducting referendum in various concerns so as not to negate the majority opinion the existing Trade Union Act and Industrial Dispute Act".

2. I am of opinion that whether a Union is entitled to be recognized or not itself is an industrial dispute, which is the settled law and therefore, the petitioner's remedy lies in raising an industrial dispute in the matter. Therefore, without prejudice to the right of the petitioner to raise an industrial dispute, this writ petition is dismissed.

S. SIRI JAGAN, JUDGE

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